

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

ORVILLE JOSEPH VANRIEL §
VS. § CIVIL ACTION NO. 1:05cv836
UNITED STATES OF AMERICA §

MEMORANDUM ORDER OVERRULING MOVANT'S OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Orville Joseph Vanriel, proceeding *pro se*, filed this motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255.

The court previously referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge concerning the motion to vacate. The magistrate judge recommends the motion to vacate be denied.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. Movant filed objections to the Report and Recommendation. Accordingly, the court must conduct a *de novo* review of the objections in relation to the pleadings and the applicable law. See FED. R. CIV. P. 72(b).


The magistrate judge concluded this motion to vacate should be denied because movant waived his right to file a motion to

vacate in his plea agreement. The court agrees with this conclusion. In addition, the court is of the opinion that movant's ground for review is without merit. Movant asserts that the indictment returned against him should be dismissed because he was not informed of his right to consult with a consular official as provided by the Vienna Convention on Consular Relations. However, as the Vienna Convention does not bestow upon an individual a private, judicially-enforcable right to consult with consular officials, *United States v. Jimenez-Nava*, 243 F.3d 192 (5th Cir. 2001), movant's ground for review does not provide him with a basis for relief in this proceeding.

O R D E R

Accordingly, movant's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered denying the motion to vacate.

SIGNED this the 7 day of **February, 2006**.


Thad Heartfield
United States District Judge